IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 187 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME-TAX

Versus

RANGRAJ KESHRIMAL

Appearance:

1. INCOME TAX REFERENCE No. 187 of 1992

MR MANISH R BHATT for Petitioner No. 1

..... for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 15/01/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in respect of assessment year 1977-78 :-

"Whether the Appellate Tribunal is right in law in holding that the income earned from the firm belonged to Rangraj Keshrimal family trust and thereby deleting the said income from the income of the assessee ?"

2. We have heard Mr MR Bhatt, learned Standing Counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision dated 29.8.2002 by another Division Bench of this Court in Income-tax Reference No. 186 of 1990 involving the same controversy between the same parties for another assessment year. The question considered in the said reference was as under :-

"Whether the Appellate Tribunal is right in law in holding that the income earned from the firm belonged to Rangraj Keshrimal Family Trust and thereby deleting the said income from the income of the assessee ?"

After hearing the learned standing counsel for the revenue (the respondent-assessee was absent in that case also), this Court answered the question in the affirmative i.e. in favour of the assessee and against the revenue.

4. Since the controversy raised in the present reference is already concluded against the revenue, we answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

The reference accordingly stands disposed of.

(M.S. Shah, J.)

(A.M. Kapadia, J.)
sundar/-